

**ANDOVER CONSERVATION COMMISSION MEETING MINUTES
NOVEMBER 19, 2103**

Town of Andover
36 Bartlet Street
3rd Floor Conference Room
7:45pm

Conservation Members in Attendance:

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Kevin Porter, Commissioner Phil Sutherland, Commissioner Alix Driscoll, Commissioner Floyd Greenwood and Commissioner Jon Honea. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

107 High Plain Road

Present in Interest: Bill Foster

Staff Recommendation: Approve as Pos.2b, Neg.3 and Neg.6.

Public Hearing on a Request for Determination of Applicability filed by David and Becky Houston under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection by-Law for the proposed construction of an addition on the rear and side of the existing dwelling at 107 High Plain Road.

Agent Cleary presented this to the Commission. The filing is under the WPA only for 2 additions, a walkway and driveway. There are no proposed changes to grading and the work is greater than 50 feet from the resource area. Staff is not ruling on the wetland boundary as some flags were missing. A waiver is requested for the tree line on the plan.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to Approve the waiver for the tree line; it was seconded by Commissioner Driscoll. Commissioner Porter made a Motion to Approve as Pos.2b, Neg.3 and Neg.6; it was seconded by Commissioner Driscoll and unanimously approved.

6 Haven Drive

Present in Interest: Ronald Guild

Staff Recommendation: Approve as Pos.2b, Neg.3.

Public Hearing on a Request for Determination of Applicability filed by Ronald Guild under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law, for the proposed abandonment of an existing septic system and tie into Town sewer at 6 Haven Drive.

Mr. Douglas presented this to the Commission. The project is a standard deactivation of a septic system and tie into sewer. The tank is to be filled with sedimentation control to be used to stabilize the site.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to Approve as Pos.2b and Neg.3; it was seconded by Commissioner Driscoll and unanimously approved.

344 River Road

Staff Recommendation: Issue Pos.1 and Pos.5.

Public Hearing on a Request for Determination of Applicability filed by Builders Alliance Group c/o Jim Scale under the Massachusetts Wetlands Protection Act and/or Andover Wetlands Protection By-Law for the proposed abandonment of an existing septic system and tie into Town sewer at 344 River Road. The revised Plan includes demolition of an existing dwelling and construction of a new dwelling.

Agent Cleary presented this to the Commission. The Application is incomplete and subject to the By-Law. The applicant was asked to withdraw his application and has not. A Notice of Intent should be filed for all work proposed on the site.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to issue a Pos.1 and Pos.5; it was seconded by Vice Chairman Walsh and unanimously approved.

9 Union Street

Present in Interest: Maureen Hanley and Diane Krafton

Staff Recommendation: Close Public Hearing and issue ORAD.

Public Hearing on a Request for an Abbreviated Notice of Resource Area Delineation filed by Richard Krafton under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law to confirm the boundary of bordering vegetated wetland and riverfront area at 9 Union Street.

Agent Cleary presented this to the Commission. This was continued from November 5, 2013 for purposes of a revised plan which incorporated flagging changes on site. The revised plan received comments to staff notes regarding the requested changes.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to close the public hearing and issue the ORAD; it was seconded by Commissioner Driscoll and unanimously approved.

36 Sunset Rock Road

38 Sunset Rock Road

Present in Interest: Doug Lees, Markus Pinney and Bob Golledge

Staff Recommendation: Require an Amendment to the Order of Conditions.

Continued Public Hearing on a Request for an Amended Order of Conditions filed by Corville Realty Trust under the Massachusetts Wetlands Protection Act and/or Andover Wetlands Protection By-law. The proposed Amendment is to amend the Order of Conditions to comport with the As-Built Plan.

Agent Cleary presented this to the Commission. This was continued from October 15, 2013 for the purpose of staff, Markus Pinney and Commissioner Greenwood to have a “working meeting” with Steve Eriksen and the contractor with the goal of obtaining a complete, accurate submittal relative to on-site conditions and plan requirements. The new plan submittal was to contain non-disturb markers, grading changes, and wetland line. The Commission issued fines in the amount of \$5,600.00 for unapproved changes and these fines have been appealed by the Applicant. Staff was advised at the “working meeting” that a Certificate of Compliance was to be submitted and the Request for an Amendment to be withdrawn. An updated plan was received; however grading changes are still missing from the plan. The structure was built without approval with a larger portion of the dwelling closer to the 25 foot non-disturb area. A number of bounds have not been installed correctly. Staff recommends the unresolved issues be resolved and the Commission should adhere to their policy of requiring an Amendment to the Order of Conditions for “after the fact” approval and then proceed to the Certificate of Compliance. The Certificate of Compliance should be a Partial Certificate of Compliance due to mitigation monitoring for the duration of 2 years.

38 Sunset Rock Road was continued for the same reasons also including the tree line was cleared and sod is in place to the limit of work, but the As-Built Plan depicts a tree line that does not exist.

Bob Golledge addressed the Commission regarding both projects. 36 Sunset Rock Road has less impervious area and both the pool and cabana have been removed and the house is smaller than approved. There is less impervious area than originally proposed. The markers will be reinstalled correctly. Mr. Golledge has requested to withdraw the Amendment to the Order of Conditions. Chairman Cooper inquired as to why with Amendment is being withdrawn. Mr. Golledge stated that he felt this procedural step was not necessary.

Markus Pinney addressed the Commission with his findings as the site monitor. He found that the driveway is 2-10 feet closer to the resource area, more of the existing dwelling is closer to the wetland, and he would like to see an alternative to the existing driveway because it is located on the 25 foot non-disturb line with a steep slope. Mr. Pinney recommended plantings or some sort of buffer be placed to prevent any encroachment into the 25 foot non-disturb area.

Commissioner Sutherland inquired as to why the dwelling was moved without first coming to the Commission for approval. Mr. Golledge responded with the Applicant believed the changes would require an Amendment.

Commissioner Greenwood stated that if the Commission allowed the plan change without an Amendment they would be setting a precedent for future filings.

38 Sunset Rock Road. The bounds are not correctly installed, existing grading, and the house is now located outside the 100 foot buffer zone. Fines were discussed at the last meeting, but not issued as long as the Applicant submitted an Amendment. At the October 15, 2013 the Applicant's representative agreed to submit an Amendment and revised Plan. The Commission must decide what is "substantial compliance". Staff does not believe the site is in compliance. Topography issues for both sites will need to be worked out with staff on site with the Applicant.

Mr. Golledge addressed the concerns. To place all grades, existing and approved, would have been too confusing. There is less fill and less impervious area on this site. Mr. Golledge requested the Amendment and Certificate of Compliance be issued simultaneously.

This site will also be issued a partial Certificate of Compliance due to ongoing mitigation monitoring.

Chairman Cooper would not agree to skip the Amendment procedure, but did open discussion for submitting the new plans for the Amendment and then acting on the Certificate of Compliance. He asked staff if these plans were submitted for the Amendment, what would need to be changed. Staff indicated the grading would need to be agreed upon for both lots. Staff will hold the Certificate of Compliances until the Amendments are issued, the bounds are installed correctly, grading agreed upon and recorded. 36 Sunset Rock Road will need some plantings along the driveway as non-disturb marker in front of the conservation markers as a physical boundary, markers installed and topography agreed upon.

38 Sunset Rock Road needs markers installed and the tree line shown on the plan does not comport to site conditions.

Mr. Golledge requested a withdrawal of the request to withdraw the Amendment and is submitting the new As-Built Plan for approval of the Amendments to the Order of Conditions and requests the Certificates of Compliance. Mr. Golledge also agreed to waive the 21 day requirement for issuance of the Amendments and Certificates of Compliance and agreed to submit the waiver in writing for the files.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to Approve the withdrawal of the request to withdraw the Amendment, accept the As-Built Plans for the Amendments and issue the Partial Certificates of Compliance upon bounds fixed, plans changed and plantings completed and Amendments recorded, it was seconded by Commissioner Greenwood and unanimously approved.

15 Stevens Street

Present in Interest: Paul Finger, Jacqueline Tranza

Staff Recommendation: Continue to a Date Uncertain.

Public Hearing on a Request for an Amended Order of Conditions filed by Atria Senior Living, Inc., Trust under the Massachusetts Wetlands Protection Act and/or Andover Wetlands Protection By-Law, to construct 13 new units, a new stairwell, reconfigure basement windows and realign the vehicular circulation at the front entrance at 15 Steven Street-Atria Marland Place, Building No. 3.

Agency Cleary presented this to the Commission. The filing is under both the WPA and By-Law. The proposed work is for renovation to Mill Building No. 3, otherwise known as Phase #1 of the project. The Applicant is requesting waivers for work within the 50 foot and 25 foot non-disturb relief from permanent bounds and relief from wetland delineation plan. The Applicant is creating more flood storage as a result of the proposed work and would like to “bank” on this number for future phases of the project. The Applicant would also like to “bank” increase in pervious surface created. The resource areas included in this project are: Riverfront, Borderland Land Subject to Flooding, Bank, BVW and 100 foot buffer zone.

Paul Finger and his associate Jacqueline presented the project to the Commission. In the original Order of Conditions the project gained compensatory flood storage by removing Mill Building No. 4 and a chimney, a portion of this flood storage gained will be used for this project. This area could potentially be the staging area for the removal of the Ballardvale Dam. This is a previously disturbed area. There will be work done within the flood plain but will not impact the BVW. Work within the bank will take place while the walls are pointed during low flow.

Netting will be used for any mortar and debris that falls. The area along the Riverfront is a previously developed site with the removal of Mill Building No. 4 and improved views and usage. There was issued under the original Order of Conditions a waiver under the By-Law for no-disturbance zone (work up to the River), a building structure within the 50 foot no-build. This building will have the same footprint where Mill Building No. 4 was located. A waiver of the 50-foot no-build zone, as there is no alternative available. Louvers will be placed on the windows at basement level to allow for the flow of flood waters.

This is a request for an Amendment because no work has been done under the original Order of Conditions issued.

Commissioner Greenwood requested a site visit and will visit with Commissioner Driscoll on November 27, 2013 at 8:30am.

Commissioner Driscoll reminded the Applicant that pedestrian access was a condition of the original Order of Condition and should not be forgotten.

Commissioner Porter stated that this river redevelopment would increase the amount pervious area seems to be in conflict with the banking and redevelopment of Mill Building No. 3. Mr. Finger replied that there is still less impervious area than what the original approved design had; this provides access to the River and an improvement of use of the Shawsheen River.

Staff recommended that Janet Bernardo and Ann Marton do a limited peer review for this project.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Continue to a Date Uncertain and to require an environmental and engineering peer review; it was seconded by Commissioner Sutherland and unanimously approved.

ACTION ITEMS:

146 Dascomb Road

Staff Recommendation: Issue Order of Conditions

Issuance of the Order of Conditions.

Commissioner Greenwood made a Motion to issue the Order of Conditions; it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from November 5, 2013 Meeting.

Commissioner Driscoll made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Porter and unanimously approved.

LATE/DISCUSSION ITEMS THAT MAY REQUIRE A VOTE:

12 Coventry Lane

Present in Interest: Peter Nicosia

Vote to issue an Enforcement Order for non-compliance with the Order of Conditions and consideration of fines. Work has been started and/or completed per the Order of Conditions without the benefit of Ann Marton's oversight as the site monitor. Violations had previously occurred on site. Monies will need to be escrowed for Ann Marton to assess the site conditions, including but not limited to the altered BVW and Conservation Restriction Area. Ann was initially hired for restoration of violation work and remediation. Based on the history of this site, staff believes a site monitor is needed. Staff recommends fines of \$200 per day from the date of the violation to today. This would total \$6,800.00, however if the homeowner agrees to pay the fine by 3:00pm on December 2, 2013 the total due will be \$2,000.00, with the remainder suspended.

Attorney Peter Nicosia admitted the homeowner may have completed with work not in compliance with the Order of Conditions or paying the monitoring fees. He suggested a site meeting with the homeowner, contractor and staff to clarify the situation. He agreed to advise the homeowner to pay the site monitor fees as soon as possible so that Ann Marton can view the site.

Commissioner Greenwood made a Motion to issue the Enforcement Order and fines as discussed with the remainder of the suspended fines due and payable upon any further violation and payment of the monitoring fee by December 2, 2013; it was seconded by Commissioner Driscoll and unanimously approved.

Stouffer Circle Trails

Present in Interest: Robert DeCelle, Andy Menezes, Sahail Husain and Robert O'Day

Discussion of one year moratorium on trail development at Stouffer Circle. This neighborhood is close to the Blanchard Ball Fields. In a meeting with the Town Manager, they requested a one year moratorium to clearing a trail on the Town's land on Stouffer Circle. The Conservation Land Group suggests we mark the corner of this piece of land since an abutting home is currently for sale and the new homeowner will need to be aware of the conservation land boundaries. The neighbors are concerned the trail access will result in parking on Stouffer Circle for the ball fields.

Robert O'Day advised the Commission that his concern is the parking for the ball fields if the trail is cleared. At a March, 2012 meeting with the Town Manager, they were told that there would be no access to the ball field through Stouffer Circle. Staff will follow up with the Town Manager.

Mr. Husain asked that he be advised of any further discussions or meetings regarding the trail. Commissioner Greenwood agreed that the corners of the property should be marked and continue to meet with the neighbors.

Andy Menezes stated that the Bay Circuit Trail is being brought through Andover to Tewksbury. A trail running east to west connecting to the Bay Circuit Trail was just laid out a few weeks ago and this trail would connect to that.

Commissioner Greenwood made a Motion to table the discussion; it was seconded by Commissioner Porter and unanimously approved.

47 Canterbury Street

Ratification of Emergency Certification for beaver dam breach.

Commissioner Driscoll made a Motion to Ratify the Emergency Certification; it was seconded by Commissioner Greenwood and unanimously approved.

The next meeting will be held December 3, 2013 at 7:45pm.

The meeting was adjourned at 9:55pm by Motion of Commissioner Sutherland and seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by,

**Lynn Viselli,
Recording Secretary**